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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,994	08/09/2000	Howard Dornchl	DERN-00101	5407
28960 7590 09/19/2007 HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/635,994

Applicant(s)

DERNEHL ET AL.

Examiner

Raquel Alvarez

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

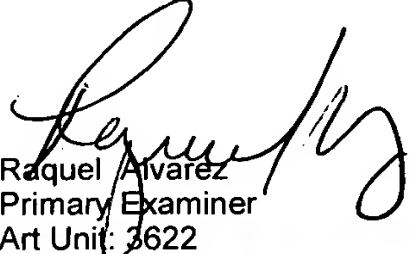
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.


Raquel Alvarez
Primary Examiner
Art Unit: 3622

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that recommend-it does not teach offering a reward in exchange for a recommendation. The Examiner wants to point out that recommend-it.com wasn't cited for teaching such limitation but Milenet was the cited reference to teach a pyramid type of incentive wherein the first user will increase their Milenet points based on friends and family installing and using Milenet.

Applicant argues that the combination of recommend-it and Milenet do not teach transacting a purchase for a marketable entity. The Examiner wants to point out that the combination of Recommend-it.com and MileNet teach a first user using and installing software and then recommending it to a second user. The references are silent as to if the software is purchased or not by the users but it would make sense and would have been obvious to have replaced a non-purchase based referral system with a purchased-based system and provide the same motive to the users which is to receive a benefit for recommending an item or service to a second user regardless if the item has been purchased or not which is taught by the combination of recommend-it.com and Milenet.

Applicant argues that recommend-it.com does not teach a recommendation that includes an offer to transact an exchange where the offer is included within the recommendation itself. The Examiner disagrees with Applicant because in recommendation.com, the second user receives an e-mail detailing the software called WebDeck. The e-mail itself is the offer to transact or to carry on business with webdeck.com regardless if the service is free or not.

With respect to the Official Notices taken, the Examiner wants to point out that Applicant is not casting a reasonable doubt for the Examiner to believe that the features taken Official Notices of such as an icon presented in a message that would represent a function or program is not well known at the time of Applicant's invention.

With respect to claim 6, Applicant argues that the Official Notice taken is not related to submitting a token within the first web site and the new token is defined according to updated data within the database. The Examiner disagrees with Applicant because using an icon carrying on a program from a website is updated according to the functions and regulations of that website and is presented for easy manipulation and navigation of information as stated on the previous office action.